

ORDINANCE NO. 06- 296

AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS AMENDING TITLE 5, ENTITLED "ANIMALS" OF THE LOS ALTOS MUNICIPAL CODE BY AMENDING CHAPTERS 5.04, 5.08, 5.16 AND 5.20

WHEREAS, The City of Los Altos City Council ("City Council") hereby finds that the following amendments to Title 5 of the Los Altos Municipal Code are in the interest of public health, safety and welfare; and,

WHEREAS, the City Council further finds and determines that these amendments are necessary to protect the citizens of the City from potentially dangerous or vicious animals.

SECTION 1. Title 5, Chapter 5.04, entitled "Administrative Provisions" of the Los Altos Municipal Code is hereby amended to add a new Section 5.04.005, entitled "Definitions" to read as follows:

"5.04.005 Definitions.

For the purposes of Title 5, the following words and phrases shall have the meanings respectively ascribed to them by this Section, unless the context or the provision clearly requires otherwise:

- a. **"Animal"** includes any live vertebrate creature, domestic or wild, except fish.
- b. **"Animal Establishment"** means any commercial premises or place within the City where animals are kept, boarded, trained, sold or groomed, including a kennel, pet shop and grooming parlor.
- c. **"Animal Menagerie"** means any place where potentially dangerous animals are kept or maintained for any purpose, including places where kept for boarding, exhibition, training or kept for hire.
- d. **"Animal Shelter"** means a facility operated by a public jurisdiction or by an accredited, tax-exempt humane organization for the purposes of impounding, harboring, selling, placing, or destroying seized, stray, distressed, homeless, abandoned or unwanted animals.
- e. **"Cat"** includes all domesticated felines.
- f. **"Commercial Kennel"** means any person engaged in the commercial breeding of dogs or cats, or both, for sale, individually or in litter lots: or in the boarding, training, sale or hire of dogs and/or cats for compensation, except that animal hospitals maintained by a veterinarian licensed by the State of California as part of the practice of veterinary medicine, animal shelters, or private kennels shall not be considered commercial kennels.
- g. **"Dog"** includes all domesticated canines
- h. **"Enclosure"** means a fence or structure suitable to prevent the entry of young children, and which is suitable to confine a potentially dangerous or vicious animal in conjunction with other measures which may be taken by the owner or keeper of

the animal. The enclosure shall be designed in order to prevent the animal from escaping.

- i. **“Health Officer”** means the Director of Public Health or any other person duly authorized to act on his/her behalf.
- j. **“Impounded”** means taken into custody of the administrator.
- k. **“Owner”** means any person who owns or exercises custody and control of an animal or who harbors or keeps an animal for five consecutive days.
- l. **“Pet Shop”** means an establishment operated by any person where any live animals are kept for sale, barter or hire.
- m. **“Private Kennel”** means a person who maintains more than the allowed number of dogs or cats over four months in age within or adjoining his or her private residence.
- n. **“Potentially Dangerous Animal”** Any animal, except a dog assisting a peace officer engaged in law enforcement duties, which demonstrates any or all of the following behavior shall be presumed to be potentially dangerous.
 - 1. Any animal which, when unprovoked, on two separate occasions within the prior 36-month period, engages in any behavior that requires a defensive action by any person to prevent bodily injury when the person and the dog are off the property of the owner or keeper of the dog.
 - 2. Any animal which, when unprovoked, bites a person causing a less severe injury than as defined in Section 5.04.005(l).
 - 3. Any animal which, when unprovoked, on two separate occasions within the prior 36-month period, has killed, seriously bitten, inflicted injury, or otherwise caused injury, attacking a domestic animal off the property of the owner or keeper the animal.
- k. **“Quarantine”** means isolation of an animal in a place and manner approved by the Administrator.
- l. **“Severe Injury”** means any physical injury to a human being that results in muscle tears or disfiguring lacerations, or requires multiple sutures or corrective or cosmetic surgery.
- m. **“Vicious Animal”** Any animal, except a dog assisting a peace officer engaged in law enforcement duties, which demonstrates any or all of the following behavior shall be presumed to be vicious:
 - 1. Any animal which, when unprovoked, in an aggressive manner, inflicts severe injury on or kills a human being.
 - 2. Any animal previously determined to be, and currently listed as potentially dangerous, which, after its owner or keeper has been notified of this determination, continues the behavior described in Section 5.04.005(o), or is maintained in violation of Title 5.
- n. **“Wild Animal”** means any wild, exotic, undomesticated, dangerous or venomous animal, including mammals, fowl or reptiles.

SECTION 2. Title 5, Chapter 5.08, entitled "Animal Control Regulations Generally" of the Los Altos Municipal Code is hereby amended to delete Section 5.08.060 entitled "Vicious animals" in its entirety and replacing it with a new Section 5.08.060 entitled "Vicious animals" to read as follows:

"5.08.060 Vicious animals.

A. Any animal, except a dog assisting a peace officer engaged in law enforcement duties, which demonstrates any or all of the following behavior shall be presumed to be vicious:

1. Any animal which, when unprovoked, in an aggressive manner, inflicts severe injury on or kills a human being.
2. Any animal previously determined to be, and currently listed as potentially dangerous which, after its owner or keeper has been notified of this determination, continues the behavior described in Section 5.04.005(o), or is maintained in violation of Title 5.

B. For the purposes of this chapter, a person shall be peaceably and lawfully upon the private property of an owner of the animal when he is on such property in the performance of any duty imposed upon him by the laws of the state or any city or county, or by the laws or postal regulations of the United States, or when he is on such property upon invitation, express or implied."

SECTION 3. Title 5, Chapter 5.16, entitled "Dangerous and Vicious Animals" of the Los Altos Municipal Code is hereby amended to delete Section 5.16.010 entitled "Permits required for potentially dangerous and/or vicious dogs" in its entirety and replacing it with a new Section 5.16.010 entitled "Permits required for potentially dangerous and/or vicious dogs" to read as follows:

"5.16.010 Permits required for potentially dangerous and/or vicious animals.

A. No person shall keep, have, maintain, sell, trade, or let for hire a potentially dangerous and/or vicious animal without first obtaining a permit from the City of Los Altos. The application for a permit, permit conditions, inspections, denial, revocation, and appeals shall be the same as set forth in Sections 5.24.020, 5.24.030 and 5.24.050 through 5.24.090 inclusive, of Chapter 5.24.

B. No permit shall be required of any zoo, university, college, governmental research agency, or other bona fide scientific institution, as determined by the City of Los Altos, engaging in scientific or public health research. For the purposes of this section, a zoo shall be considered any organization which exhibits animals to the general public at regular specified hours, equaling at least thirty (30) hours a week for thirty-six (36) weeks a year, and whose animals, whether maintained for exhibit purposes or not, are not for sale to private individuals.

C. If the administrator or a law enforcement officer has investigated and determined that there exists probable cause to believe that an animal is potentially dangerous or vicious, the administrator or local law enforcement agency shall schedule an administrative hearing for the purpose of determining whether or not the animal in question should be declared potentially dangerous or vicious. The owner or keeper of the animal shall be served with notice of the hearing by first-class mail with return receipt requested. The hearing shall be held promptly within no less than five (5) working days nor more than ten (10) working days after service of notice upon the owner or keeper of the animal. The administrator or Hearing Officer may find, upon a preponderance of the evidence, that the animal is potentially dangerous or vicious and make other orders authorized by this chapter. Hearing subject to provisions of Section 1.30.045 of Chapter 1.

D. No animal may be declared potentially dangerous or vicious if any injury or damage is sustained by a person who, at the time the injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the animal, or was teasing, tormenting, abusing, or assaulting the animal, or was committing or attempting to commit a crime. No animal may be declared potentially dangerous or vicious if the animal was protecting or defending a person within the immediate vicinity of the animal from an unjustified attack or assault. No animal may be declared potentially dangerous or vicious if an injury or damage was sustained by a domestic animal, which at the time the injury or damage was sustained, was teasing, tormenting, abusing, or assaulting the animal. No animal may be declared potentially dangerous or vicious if the injury or damage to a domestic animal, was sustained while the animal was working as a hunting animal, herding animal, or predator control animal on the property of, or under the control of, its owner or keeper, and the damage or injury was to a species or type of domestic animal appropriate to the work of the animal.

E. Appeals shall be processed pursuant to the provisions of Chapter 1, Sections 1.12.010 and 1.12.020.

SECTION 4. Title 5, Chapter 5.20, entitled "Fees for impounding and keeping" of the Los Altos Municipal Code is hereby amended to delete Section 5.20 entitled "Fees for impounding and keeping" in its entirety and replacing it with a new Section 5.20 entitled "Fees for impounding and keeping" to read as follows:

"5.20.020 Fees for impounding and keeping.

All impoundment fees are the responsibility of the animal owner regardless of the hearing determination and all fee for's keeping an impounded animal shall be charged in an amount sufficient to defray the costs of keeping the animal, as determined by the administrator."

SECTION 3. CEQA EXEMPTION: These ordinance amendments set forth above have been reviewed and considered by the City Council in accordance with the provisions of the California Environmental Quality Act of 1970, as amended ("CEQA"), and the guidelines promulgated thereunder and, further, said Council finds that it can be seen with certainty that there is no possibility that said amendments may have a significant effect on the environment and said amendments are therefore exempt from the requirements of the CEQA pursuant to the provisions of Section 15061(b)(3) of Division 6 of Title 14 of the California Code of Regulations.

SECTION 4. PUBLICATION: A summary of this ordinance shall be published in the Los Altos Town Crier, as provided for in California Government Code Section 36933.

SECTION 5. CONSTITUTIONALITY. If any section, subsection sentence, clause, phrase or word of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 6. EFFECTIVE DATE: This Ordinance, pursuant to Government Code section 36937, is hereby declared to be necessary as an emergency measure for the preservation of the public peace, health, safety and property in the City, and as such shall take effect immediately and be in full force and effect after its adoption after publication at least once in an official newspaper of the City for the following reasons:

A. The City desires to adopt the amendments to Title 5, Chapters 5.04, 5.08, 5.16 and 5.20, to efficiently enforce the provisions of the City Code and to protect the property, health and safety of the citizens of the City.

B. The City further finds that over the last year there has been an increase in potentially dangerous or vicious dog complaints and attacks and these amendments are necessary to effectively enforce the Los Altos Municipal Code, and to further protect the safety of the citizens.

C. Therefore, in order to accomplish these goals, Los Altos Municipal Code Chapter 10.08, as amended, must adopted by means of this emergency ordinance.

PASSED FOR THE PURPOSE OF PUBLICATION this 29th day of August 2006, by the following roll call vote:

Ayes: CARPENTER, COLE, CASAS, COLEHOWER, PACKARD

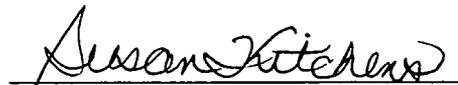
Noes: NONE

Absent: NONE



Ronald D. Packard, MAYOR

Attest:


Susan Kitchens, CITY CLERK